

## MINUTES

### RANDOLPH COUNTY PLANNING BOARD

**January 10, 2006**

The Randolph County Planning Board met at 6:30 p.m., on Tuesday, January 10, 2006, in the Commissioners' Meeting Room, Randolph County Office Building, 725 McDowell Road, Asheboro, North Carolina.

1. **Acting Chairman Lynden Craven** called to order the Randolph County Planning Board meeting at 6:30 p.m.
2. **Hal Johnson**, Planning Director, called roll of the members: Maxton McDowell, Chairman, absent; Lynden Craven, present; Larry Brown, present; Phil Ridge, present; Chris McLeod, present; Jim Rains, present; Reid Pell, present; Wayne Joyce, Alternate, present (substituting for regular member McDowell); and Danny Shaw, Alternate, present. **County Attorney Alan Pugh** was present for this meeting.
3. **Jim Rains** made the motion, seconded by **Larry Brown**, to approve the minutes of the December 6, 2005 Randolph County Planning Board meeting. The motion passed unanimously.
4. **Resolution of Appreciation to Bill Dorsett for 18 years of service to the Randolph County Planning Board.**

**McLeod** made the motion, seconded by **Brown**, to recognize Dorsett's work for the Randolph County Community for the past 18 years. The motion passed unanimously.

5. **REQUEST FOR A SPECIAL USE PERMIT:**

***Swearing in of the Witnesses** - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."*

One person took this oath.

- A. **CYNTHIA ROSEBERRY**, High Point, North Carolina, is requesting a Special Use Permit for a Rural Family Occupation to construct a 55' x 62' building to be used for a small concrete business and personal storage as per site plan at her residence located on 12.23 acres on Pliney Farlow Road, New Market Township, Zoning District RA, Tax ID# 7726964791. Dennis Ted Williams, Property Owner. If this permit is granted, Roseberry plans to purchase the property and

construct her residence.

- **Technical Review Committee Recommendation**

*The Technical Review Committee met and found that this proposal was NOT in compliance with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommended to the County Planning Board that this request be denied as not in character with the single family residential patterns in the area. The Committee noted that the proposed building would be larger than the primary residence.*

Johnson announced that the applicant had withdrawn this request and the request would not be considered.

- B. **RICHARD KELLER**, Denton, North Carolina, is requesting a Special Use Permit for a Rural Family Occupation of a real estate business from an existing 50' x 50' building with a future expansion of 50' x 50' at his residence located on 5 acres, at 7638 NC Hwy 49 South, Concord Township, Zoning District RA, Tax ID# 7608155802.

- **Technical Review Committee Recommendation**

*The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommended to the County Planning Board that this request be approved. The Committee noted that the topography of the land would help screen the proposed building from the highway.*

**Keller** was present and explained his intention to keep his equipment and supplies for his business in the existing building which he plans to expand. Keller said that he is a private investor and purchases property to renovate and resell.

**Brown** questioned the request of a real estate business, and Pugh clarified the special use permit request with the applicant as a renovation business.

**There was no one present in opposition to this request.**

**Brown** made the motion, seconded by **Rains**, to **approve** this request for a Special Use Permit. The motion passed unanimously.

6. **REQUESTS FOR PROPERTY REZONING:**

- A. **DAVID COCKMAN**, Liberty, North Carolina, is requesting that 3 acres located on the corner of Old Hwy 421 Road/Bulb Road, Liberty Township, be rezoned from RA to HC-CU. Primary Growth Area. Tax ID# 8708748290. The Conditional Use Permit would specifically allow the construction of a mini-warehouse facility with approximately 225 storage units as per site plan.

- **Technical Review Committee Recommendation**

*The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommended to the County Planning Board that this request be approved. The Committee noted there are other commercial operations in this Municipal Growth Area.*

*Examples of some Growth Management Policies that the Technical Review Committee found supporting this recommendation are:*

**Policy 4.1**      *Commercial development should be encouraged to occur in clusters or planned shopping centers to minimize the proliferation of “retail strip” locations.*

**Policy 4.2**      *Highway oriented commercial uses should be clustered along segments of arterial streets and contain land uses that are mutually compatible and reinforcing in use and design. They should be designed in a way that minimizes signage, access points and excessive lengths of commercial strip development.*

**Cockman** was present and said he has owned this property for two years. Cockman said he currently resides on the property. Cockman said he intends to develop the property in phases, and as the demand increases he plans to fill the entire property with mini-warehouse storage. Cockman said he plans to construct a fence and plant some trees along Bulb Road. Cockman said he will tear the house down eventually and replace it with storage buildings. **McLeod** asked Cockman if he has ever operated this type of business. **Cockman** answered no.

**Ben Morgan**, attorney representing Mr. & Mrs. Peter Booras, said that they are opposed to this development. Morgan said the Booras live on a farm approximately ½ mile from the site. Morgan said they are troubled by this type of development within this highly residential area. Morgan said this is an extensive commercial use, and this type of development is subject to criminal activity.

Morgan said this development would disrupt this residential community. Morgan said the site plan does not call for any buffers as the applicant has suggested. Morgan said the applicant still has the burden to prove that the request is in conformance with the Zoning Ordinance and it is their opinion that this request is not in conformance. Morgan said that they would not be opposed to all types of commercial uses, but there are more appropriate types of commercial uses. Morgan said they do appreciate the use of conditional use zoning at this location, but they are concerned that the site plan was not drawn by an engineer and is not drawn to scale. Morgan said they felt more detailed information should have been provided on the site plan.

**Cockman** said the buildings would be professional buildings with a high-tech security system. Cockman said he didn't have the plans professionally drawn because it would have cost several thousand dollars, and he didn't want to invest that amount of money into this project without being certain he could develop it. Cockman said the research he has done on this type of business shows the tenants normally stayed one year or longer. Cockman said he felt this would be a low-traffic business. Cockman said he didn't understand why anyone would be concerned about this type of development when there are many junk piles along Julian Airport Road. Cockman said maybe the enclosed storage would be used by some of those residents. Cockman added that Morgan's clients live approximately 1 mile from this site. Cockman said the business would operate from 7 am to 7 pm. Cockman said that the buildings and the fencing would be installed in phases. Cockman said he would not have an on-site manager after the residence is removed from the property. **Pugh** asked Cockman if he would be willing to work with the Planning Staff with appropriate buffers and fencing. **Cockman** said he would add this as a condition to his request. **Ridge** said he felt the Planning Department should approve a more detailed site plan (the phases, drive entrances, buffers, fencing, building locations, etc.) prior to development. **Cockman** agreed to add that his entire site plan be approved by the Technical Review Committee prior to development. **Brown** said he felt this would be more appropriate than a 3-unit commercial strip mall. **Craven** asked the projected time of completion, and **Cockman** said he felt it should be complete within 4 years. **Brown** asked if he had plans for outside storage, and **Cockman** said he would allow room for this type of storage if the market called for it. **Pugh** said that the site plan appears to be inside storage only. Pugh said the request being considered is for no outside storage and mini-warehouse storage only.

**Craven** said that he is concerned about the fencing and when it would be complete. Craven said he felt the fencing should be completed around the entire property prior to opening the facility for business. **Craven** also questioned the type of lighting that would be used, and **Cockman** said he plans to have street

lights. **Craven** said he didn't want it to have the appearance of a ballfield at night. **Cockman** said it would be low lights with a height of approximately 75'.

**Morgan** said he didn't think the site plan even came close to answering all the questions of the community. Morgan said they are concerned about all the changes that may be made by applicant prior to development. Morgan said he felt this was leaving too many blanks unfilled.

**Johnson** suggested to the Board that they could delay this request until the applicant had time to work with the Planning staff on a more detailed site plan.

**Rains** made the motion to delay this request until a more detailed site plan including lighting, fencing, existing grade of the property, buffering, etc. could be worked up with the Planning Staff.

**Pugh** encouraged those persons present in opposition to the request to contact the Planning Office to see what input or involvement they may possibly have.

The motion was seconded by **Pell** and passed unanimously.

- B. **IAI Properties**, Sophia, North Carolina, is requesting that 30.41 acres located on Branson Davis Road, New Market Township, be rezoned from RA to CVOE-CU. Secondary Growth Area. Randleman Lake Watershed. Tax ID# 7746417560. The proposed Conditional Use Zoning District would specifically allow the development of a 14-lot residential subdivision for site-built homes with a minimum house size of 1,400 sq. ft.

- **Neighborhood Information Meeting**

*Neither the developer nor the surveyor attended this meeting. There was only one person present from the community, who expressed concern that the speed limit on Branson Davis Road should be reduced in the area where Kersey Acres is located.*

- **Technical Review Committee Recommendation**

*The Technical Review Committee met and found that the proposal is in compliance with standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommended to the County Planning Board that this request be approved as consistent with existing development in the area.*

*Examples of some Growth Management Policies that the Technical Review Committee found supporting this recommendation are:*

*Policy 6.5      The protection of viable rural neighborhoods should be encouraged by compatible residential development to insure the continued existence as a major housing source and as a reflection of the long-term quality of life in Randolph County.*

*Policy 6.13    Conventional Residential Subdivisions are anticipated of similar housing characteristics to the community.*

*Policy 6.14    Residential subdivisions should, in order to promote efficiencies in the delivery of urban services, be encouraged to develop in a fashion which minimizes “leap frog” development (i.e. leaving large vacant areas between developments).*

The applicant was not present for this meeting.

**Alfred Yancey**, 4946 Branson Davis Road, said that he voiced his concern of the traffic on Branson Davis Road at the meeting of the first phase. Yancey said that they have a lot of traffic along this section of road traveling at a speed of 60-70 mph. Yancey said that he felt the speed limit should be reduced to 45 mph. Yancey questioned if the property would even perk. Yancey described the property as muddy and said the property is not a good place for a subdivision. Yancey expressed concern of several off-site septic systems that would be crossing a creek.

**Rains** questioned the cul-de-sac in the middle of the stream buffers. **Ridge** said that he didn't feel that the Army Corps of Engineers would approve this road.

**Edward Lawrence**, 4875 Branson Davis Road, said he is not opposed to the development but is concerned about all the off-site septic systems being proposed. Lawrence said all of these septic tanks would also be located in the path of the new highway.

There were 3 citizens present in opposition to this request.

**Rains** made the motion, seconded by **Brown**, to recommend to the Commissioners that this request be **denied** due to fact that the plan appears to violate buffers along the existing creek. **Ridge** also expressed concern for new drives being added to the existing road.

The motion passed unanimously.

7. **Amendments to County Unified Development Ordinance** - to secure compliance with new legislation (S.518 and S.814) known as “An Act to Clarify and Make Technical Changes to City and County Planning Statutes” adopted by the 2005 North Carolina General Assembly.

Johnson provided a list of the changes with a brief summary and also a list of the amendment changes in our ordinance.

### **PROPOSED UNIFIED DEVELOPMENT ORDINANCE REVISIONS**

#### **Adopting Ordinance - Amend to read:**

Section 6. This Ordinance is enacted pursuant to the authority granted by N.C.G.S. 153A-322(d). Unless expressly provided otherwise, Randolph County may apply any of the definitions and procedures authorized by law to any of all aspects of the unified ordinance and may employ any organizational structure, board, commission, or staffing arrangement authorized by law to any or all aspects of the ordinance.

#### **Chapter 1. Definitions - Amend to read:**

Subdivision: means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets with certain exceptions which are listed hereafter in Article IV, Sec. 2 Subdivision Definition and Exceptions.

#### **Chapter 2. Zoning Ordinance - Amend to read:**

#### **Article VII District Regulations, Section 2. Conditional Use Districts, Paragraph 1**

It will be noted that a Conditional Use District (bearing the designation CU) corresponds to each of the other districts authorized in this Zoning Ordinance. It is the intent of this ordinance to create general use districts in which a variety of uses are permitted and to also create conditional use districts in which a single use is permitted upon the issuance by the Board of Commissioners of a conditional use permit prescribing the conditions under which such use will be permitted. It is recognized by Randolph County that certain types of zoning districts would be inappropriate at particular locations in the absence of clearly defined conditions. Such districts may include, but shall not be limited to, general use districts, in which a variety of uses are permissible in accordance with general

standards; overlay districts, in which additional requirements are imposed on certain properties within one or more underlying general use districts; conditional use districts, in which uses are permitted only upon the issuance of a conditional use permit; and conditional zoning districts, in which site plans and individualized development conditions are imposed.

**Article VII District Regulations, Section 2. Conditional Use Districts, Paragraph 2**

Property may be placed in a conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to these districts may be proposed by the petitioner or the County or its agencies, but only those conditions mutually approved by the county and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to County ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

**Article VII District Regulations, Section 2. Conditional Use Districts, New Paragraph 4**

The procedure for granting Conditional Use Rezoning shall be the same legislative process required of the Board of County Commissioners as outlined in Article XIII, Section 4.

**Article VII District Regulations, Section 5. Special Uses, 5.2 Procedures, Paragraph 4**

The Planning Director shall set and advertise a date and time for a public hearing before the Planning Board. Notice of such hearing shall run in a newspaper of general local circulation at least 10 days before the date set for the public hearing, but not more than 25 days before the public hearing. The second notice must appear in a separate calendar week.

**Article VII District Regulations, Section 5. Special Uses, 5.2 Procedures, New Paragraph 6**

No vote greater than a majority vote shall be required for the Board of Commissioners or Planning Board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority. When deciding special use permits, the Planning Board shall follow quasi-judicial



procedures. The Board Chairman, Planning Director, or Clerk to the Planning Board shall be authorized to administer the required oath prior to receiving testimony.

**Article VII District Regulations, Section 5. Special Uses, 5.2 Procedures, Paragraph 8**

The Planning Board or the Board of Commissioners may issue special use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits.

**Article XII Board of Adjustment, Section 2. Number of Members; Appointment, New Paragraph 2**

The Board of Commissioners may, in its discretion, appoint and provide compensation for alternate members to serve on the board on the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member.

**Article XII Board of Adjustment, Section 4. Vacancies, New Paragraph 2**

For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

**Article XII Board of Adjustment, New Section 7. Conflicts of Interest**

A member of the board or any other body exercising the functions of a board of adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

**Article XII Board of Adjustment, Section 11. Powers of the Board of Adjustment (b)**

### **New Paragraph 3**

When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. No change in permitted uses may be authorized by variance. Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any approval issued by the board. These regulations provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained, provided no change in permitted uses may be authorized by variance.

### **Article XII Board of Adjustment, Section 11. Powers of the Board of Adjustment (c)**

The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board of Adjustment pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.

### **Article XIII Administrative and Legal Provisions, Section 4. Changes and Amendments (a)**

No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which time parties in interest and citizens shall have an opportunity to be heard. A notice of such public hearing shall be given once a week for two consecutive calendar weeks in a newspaper of general circulation in Randolph County. The first such publication shall not be less than ten (10) days preceding the date set for such public hearing, but not more than 25 days before the public hearing. The second notice must appear in a separate calendar week. Such public hearing may be adjourned from time to time or from place to place as Board of County Commissioners may deem desirable. Notice shall also be provided by first class mail to owners of property adjoining the subject property. Such notice shall be mailed at least 10 days before the hearing date.

**Article XIII Administrative and Legal Provisions, Section 4. Changes and Amendments, New Paragraph (b-i)**

- b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county may elect to use the expanded published notice provided for in this subsection. Randolph County may elect to either make the mailed notice provided for in subsection (a) of the section or may as an alternative elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page size. The advertisement shall only be effective for the property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.
- c) When a zoning map amendment is proposed, the County shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons.
- d) Subsequent to initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may proceed in its consideration of the amendment without the Planning Board report. The governing board is not bound by the recommendations, if any, of the Planning Board.
- e) Members of appointed boards providing advice to the Board of County Commissioners shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.
- f) The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the governing board that addresses plan

consistency and other matters as deemed appropriate by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

- g) A member of the Board of Commissioners shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member
- h) A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a conditional district or other small-scale rezoning.
- i) Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

#### **Article XIII Administrative and Legal Provisions, New Section 5. Moratoria**

Randolph County may adopt temporary moratoria on any county development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160A-364. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160A-417 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G.S. 160A-385.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the County prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the County prior to the call for public hearing, if subsequently

approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- a) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the County and why those alternative courses of action were not deemed adequate.
- b) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- c) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- d) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the County during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the county shall have taken all reasonable and feasible steps proposed to be taken by the county in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (a) through (d) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the County shall have the burden of showing compliance with the procedural requirements of this subsection.

### **Chapter 3. Subdivision Ordinance - Amend to read:**

#### **Article IV Legal Provisions, Section 2. Subdivision Definition and Exceptions**

a) “Subdivision” means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in its subdivision regulations.
- 2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- 3) The public acquisition by purchases of strips of land for the widening or opening of streets or for public transportation system corridors.
- 4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the County, as shown in its subdivision regulations.
- 5) The division of property among heirs for the sole purpose of settling an estate or court ordered division or settlement.

#### **Article IV Legal Provisions, New Section 12. Pre-sale Contracts GS 153A-334(b)**

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not been properly approved under the Subdivision Ordinance or recorded with the Register of Deeds, provided the contract does all of the following:

- a) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver a copy of the recorded plat prior to closing and conveyance.
- b) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that

no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

- c) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the Subdivision Ordinance or recorded with the Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no contract to lease it may become effective until after the final plat has been properly approved under the Subdivision Ordinance and recorded with the Register of Deeds.

#### **Article IV Legal Provisions, New Section 13. Enforcement**

If a county adopts an ordinance regulating the subdivision of land as authorized herein, any person who, being the owner or agent of the owner of any land located within the jurisdiction of the county, thereafter subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits require pursuant to G.S. 160A-417 may be denied for lots that have been illegally subdivided. In addition to other remedies, a county may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

**Article V Procedure for Approval of Preliminary and Final Plats for Subdivisions,  
Section 1. Review and Approval Process For Major Subdivisions**

In most instances, a major subdivision will require rezoning into a classification other than Residential Agricultural (RA). Randolph County Growth Management policies require that County Planning staff maintain a formal review process for major subdivision proposals. The following is a list of the submittal and review process:

- a) A completed Preliminary Plat/Subdivision application shall be submitted along with all additional information such as deed restrictions, maintenance agreements, permission letter from property owner, etc.
- b) In-office review of the application packet by the Planning staff.
- c) Technical Review Committee shall meet and provide recommendations to the developer.
- d) Planning staff shall meet the developer and surveyor on the site. The required and/or recommended changes from the Technical Review Committee are reviewed. The developer is then notified of the cut-off for the revised plans and filing of rezoning application forms.
- e) New plat and application for property rezoning, along with fee, are submitted to the Planning Department.
- f) The Neighborhood Information Meeting for the request is scheduled.
- g) The Technical Review Committee reviews comments and recommendations made during the Neighborhood Information Meeting. The Planning staff provides additional recommendations to the developer and/or their representative based on Technical Review Committee review.
- h) The Planning Board Public Meeting (which results in recommendations to the County Commissioners).
- i) The Board of Commissioners Public Hearing (Final authority on property rezoning).
- j) Improvements and Certificates. No final plat shall be approved until all improvements are installed or their execution guaranteed as set forth in this Ordinance and all certificates required for final plats by this Ordinance or approvals and by state law have been properly completed and signed.



- k) Recordation. The approval of the final plat by the Planning Director shall be on condition that such plat be recorded in the Office of Register of Deeds within 60 days after approval.

#### **Article VII Improvements Required Prior to Approval of Final Plats, Section 2. Guarantee of Improvements**

To assure compliance with these and other Ordinance requirements, the Ordinance shall provide for performance guarantees to assure successful completion of required improvements. If a performance guarantee is required, the County shall provide a range of options of types of performance guarantees, including surety bonds or irrevocable letters of credit, from which the developer may choose. For any specific development, the type of performance guarantee from the range specified by the County shall be at the election of the developer.

#### **Article VII Improvements Required Prior to Approval of Final Plats, Section 4 Required Improvements (d) Utilities**

All utilities shall be installed underground as required by the Randolph County Hazard Mitigation Plan. If placing the utilities underground is not possible, the developer must submit a letter from the utility provider or an engineer detailing the obstacles to placing utilities underground.

**Rains** made the motion, seconded by **Ridge**, to recommend to the Commissioners that these amendments be approved. The motion passed unanimously.

#### **8. Election of 2006 Officers - Chairman and Vice Chairman**

**Rains** said that he felt it would be helpful if there were term limits for these offices. **Johnson** explained that members are appointed for a term of three years and may be reappointed by the Commissioners. **Johnson** continued by explaining that it is the responsibility of the Planning Board to elect the Chairman and Vice Chairman positions.

**Brown** said that McDowell has done a really good job in this office.

**McLeod** said he felt the position should be rotated each year.

#### **Chairman**

**McLeod** nominated Lynden Craven for the office of Chairman for 2006. **Brown**

seconded this nomination and the vote to elect Craven as Chairman was unanimous.

**Vice Chairman**

**Brown** nominated **Jim Rains** for the office of **Vice Chairman** for 2006. **Pell** seconded this nomination and the vote to elect Rains as Vice Chairman was unanimous.

9. The meeting adjourned at 7:55 p.m. There were 15 people present for this meeting.

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**NORTH CAROLINA  
RANDOLPH COUNTY**

*HAL JOHNSON*

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**Planning Director**

*JILL WOOD*

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**Date**

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**Clerk/Secretary**